

CALIFORNIA COASTAL COMMISSION

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REGULAR CALENDAR
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: 6-06-008

Applicant: City of San Diego

Agent: Alireza Heidari

Description: Abandonment of approximately 2,000 feet of existing 18-inch trunk sewer, replacement/realignment of 4,436 feet of 18 & 15 inch trunk sewer, and rehabilitation of 600 feet of 12 inch trunk sewer.

Site: Within and adjacent to Crown Point Drive & Pacific Beach Dr., Mission Bay Park, San Diego, San Diego County.

Substantive File Documents: Certified City of San Diego LCP and Mission Bay Park Master Plan

STAFF NOTES:

Summary of Staff's Preliminary Recommendation: Staff recommends approval of the proposed development with a special condition addressing potential wetland impacts. Existing sewer facilities are being relocated outside wetlands, and no impacts are anticipated; however, due to the proximity of sensitive resources, it is possible minor impacts could accidentally occur. Chapter 3 policies of the Coastal Act are the legal standard of review with the certified Mission Bay Park Master Plan used as guidance.

I. PRELIMINARY STAFF RECOMMENDATION:

The staff recommends the Commission adopt the following resolution:

MOTION: *I move that the Commission approve Coastal Development Permit No. 6-06-008 pursuant to the staff recommendation.*

STAFF RECOMMENDATION OF APPROVAL:

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION TO APPROVE THE PERMIT:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. Standard Conditions.

See attached page.

III. Special Conditions.

The permit is subject to the following conditions:

1. Construction Impacts/Restoration. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the existing condition of the wetland vegetation surrounding the site shall be documented. In addition, because there is a potential for accidental wetland impacts to occur, the applicant shall commit in writing to conduct and submit a post-construction survey to determine actual impacts to the vegetation and substrate. The existing condition survey and commitment to conduct the post-construction survey shall be submitted for review and written approval of the Executive Director. If no permanent or temporary impacts have occurred, nothing further is required through this condition. If any impacts to wetlands have occurred, the applicant shall then submit for review and written approval of the Executive Director, a detailed revegetation plan that includes the following components:

- a. The Post-Construction Survey.
- b. Areas subjected to temporary wetland impacts shall be revegetated at a 1:1 ratio with native wetland plants from local stock.
- c. Areas subjected to temporary upland impacts shall be revegetated at a 1:1 ratio. Drought tolerant, non-invasive native plants from local stock shall be utilized to

- re-establish the area consistent with historic conditions. Use of pesticides and rodenticides shall be prohibited.
- d. The following goals, objectives, and performance standards shall apply for the sites of any temporary impacts:
1. Full restoration of all temporary wetland impacts. Restoration of temporarily impacted areas shall include at a minimum, restoration of before-impact hydrology, removal of all non-native plant species, and replanting with locally collected native wetland plant species.
 2. Success criteria and final performance monitoring shall require and assess, respectively, that coverage of areas disturbed by construction activities be similar to adjacent non-impacted reference sites within 1 year of completion of construction activities.
- e. The final design and construction methods that will be used to ensure the restoration sites achieve the defined goals, objectives, and performance standards.
- f. Submittal, within 30 days of completion of initial restoration work, of post-restoration plans demonstrating that the revegetated areas have been established in accordance with the approved design and construction methods.
- g. A survey taken one year after revegetation identifying the quantity and quality of the restored plants and compliance with the above success criteria. If the survey demonstrates the revegetation has been unsuccessful, in part or in whole, the survey shall include a plan for remediation and further surveys/reports until the sites are fully restored.
- h. All surveys, reports or other documentation of the revegetation effort shall be submitted to the San Diego office of the Coastal Commission within 30 days of completion.
- i. If the post-construction survey identifies that permanent wetland impacts have occurred, a permit amendment is required to address the identified impacts. Mitigation shall be provided for any identified permanent wetland impacts at a ratio of not less than 4:1.

The permittee shall undertake the development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

2. Timing of Work. Unless specifically authorized by the California Department of Fish and Game and the U.S. Fish and Wildlife Service, abandonment of the sewer line/filling of the manhole within Mission Bay Park shall not occur during the breeding season of any sensitive avian species nesting within 500 feet of the project site (the existing sewer berm).

IV. Findings and Declarations.

The Commission finds and declares as follows:

1. Detailed Project Description. The City of San Diego proposes to abandon an approximately 2,000-foot-long portion of an existing 18-inch trunk sewer line that is located within Mission Bay Park wetlands. The City further proposes to relocate/realign 4,436 feet of 18-inch and 15-inch trunk sewer line, and rehabilitate 600 feet of existing 12-inch trunk sewer, into nearby public streets (Crown Point Drive and Pacific Beach Drive). A portion of existing line within the wetland area will remain in use, as it serves an existing condominium development and cannot be relocated.

The proposed work will all take place within the existing improved street rights-of-way, with the exception of the sewer abandonment. Portions of the existing sewer line run through the Mission Bay Park wetlands adjacent to the Northern Wildlife Reserve, within an existing earthen berm with a dirt access road on top. To “disconnect” the abandoned section of trunk sewer, a crew must drive out on the berm, make adjustments within the existing manhole, and fill it with concrete. The berm is elevated above the adjacent wetlands, so no impacts of any kind to existing sensitive resources are anticipated.

As proposed, the total project includes work within both the Pacific Beach and Mission Bay Park communities. The subject permit covers only those portions of the total project within Mission Bay Park, which is an area of deferred certification, where only a land use plan has been certified to date. Within this area, Chapter 3 of the Coastal Act is the legal standard of review. Those areas within Pacific Beach, a fully-certified area of the City’s LCP, will be addressed by the City’s permitting regulations. Any coastal development permit issued by the City for project components within the first public road would be appealable to the Commission.

2. Sensitive Habitat/Public Recreation/Access. The subject proposal involves the disconnection and abandonment of a portion of existing trunk sewer located within a raised earthen berm in a portion of Mission Bay Park not available for public recreation. The surrounding lower area consists primarily of salt marsh vegetation, and is part of the Northern Wildlife and Kendall-Frost Preserves. The following Coastal Act policies are most applicable to the proposed development:

Section 30231 states, in part:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine

organisms and for the protection of human health shall be maintained and, where feasible, restored...

Section 30233 states, in part:

(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:

(1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.

(2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.

(3) In wetland areas only, entrance channels for new or expanded boating facilities; and in a degraded wetland, identified by the Department of Fish and Game pursuant to subdivision (b) of Section 30411, for boating facilities if, in conjunction with such boating facilities, a substantial portion of the degraded wetland is restored and maintained as a biologically productive wetland. The size of the wetland area used for boating facilities, including berthing space, turning basins, necessary navigation channels, and any necessary support service facilities, shall not exceed 25 percent of the degraded wetland.

(4) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.

(5) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.

(6) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.

(7) Restoration purposes.

(8) Nature study, aquaculture, or similar resource dependent activities.

[...]

Section 30240 (b) states, in part:

(b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.

Section 30210 states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30212 states, in part:

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

(l) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, ...

Finally, Section 30604(c) of the Coastal Act requires that a specific access finding be made in conjunction with the approval of any development to be located between the first public roadway and the sea, indicating that the development is in conformity with the public access and public recreation policies of Chapter 3. In this case, such a finding can be made.

Mission Bay, including the preserve, provides habitat for at least five State or Federal-listed threatened or endangered birds that include the California least tern, the light-footed clapper rail, Belding's savannah sparrow, the brown pelican and the western snowy plover. As such, potential adverse impacts on sensitive resources as a result of activity in the preserve area could be significant.

The existing trunk sewer is located within a dirt berm significantly higher in elevation than the surrounding wetlands. The raised berm has a dirt utility access road along the top where a manhole is located, and extends beyond Mission Bay Park to Pacific Beach Drive. Construction activities are not anticipated to result in any impacts, permanent or temporary, to the surrounding vegetation, since a means exists to access the manhole without having to physically cross the vegetation. Thus, neither vehicles and equipment, nor the workers, will be in the actual wetlands. The proximity to sensitive wetlands, however, leaves open the potential for unforeseen impacts to accidentally occur.

The Commission has typically found that development that does not provide a 100-foot buffer from wetlands can adversely impact the wetland. The purposes of establishing a

buffer area between wetlands and development include: to reduce the amount of human and domestic animal intrusion into sensitive vegetation, to reduce the impact of human activity on native wildlife species, to provide an area of land which can filter drainage and runoff from developed areas before it impacts the wetlands, and to provide an upland resting retreat area for some wetland animal species.

In the case of the proposed project, the sewer berm, and the utility improvements within it, already exist. The berm itself will not be modified, but the portion of sewer pipe running through it will be abandoned by altering the manhole connection and filling the manhole with concrete. There is no buffer between the berm and the Preserve except for the elevational difference, but nothing in the proposed project alters this condition. Moreover, the Northern Wildlife and Kendall-Frost Preserves are not open to the public because of the sensitive nature of the resources. The area is fenced along its Crown Point Drive and Pacific Beach Drive frontages, with a public overlook some distance southwest of the subject site. Only researchers and City utility crews are allowed into the preserves.

Although no temporary or permanent impacts are anticipated to wetland species, Special Condition #1 requires the applicant to submit and implement a post-construction restoration plan ensuring that in the event impacts do occur, they will be mitigated and the site restored. Any permanent wetland impacts would require mitigation through an amendment to this permit.

In summary, the project would not significantly modify existing conditions in this area of Mission Bay Park. Abandonment of the 2,000-foot portion of trunk sewer will, however, lessen the potential for sewage spills in this sensitive area. All vehicles and workers will access the manhole via the existing raised sewer berm, and the project should not result in any impacts to sensitive species adjacent to the berm. The project represents a form of non-exempt repair and maintenance of existing facilities, and the absence of a traditional buffer between the project and adjacent wetlands would not represent an adverse impact to the preserve. There should not be any direct or indirect impacts to any sensitive habitat as a result of the construction or from runoff, and the condition ensures that if there are impacts, they will be mitigated. Therefore, as conditioned, the proposed project can be found consistent with the resource protection and public access and recreation policies of the Coastal Act.

3. Local Coastal Planning. Section 30604(a) also requires that a coastal development permit shall be issued only if the Commission finds that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program (LCP) in conformity with the provisions of Chapter 3 of the Coastal Act. In this case, such a finding can be made.

The subject site is located in the City of San Diego, within Mission bay Park. The park overall is planned for open space/recreational uses, although the particular area of the sewer berm is within an area reserved for resource protection and enhancement. No local discretionary permits are required from the City for the part of this project that is subject to the Commission's review. The City's certified LCP contains policies calling for the

protection of the bay's sensitive resources, while at the same time accommodating passive recreational activity at the off-site public overlook that does not impact sensitive habitat. The proposed project is consistent with these provisions. As conditioned, the Commission finds the proposed development consistent with all applicable Chapter 3 policies of the Coastal Act. Therefore, the Commission finds the proposed development will not prejudice the ability of the City of San Diego to complete an LCP consistent with Chapter 3 for Mission Bay Park.

4. Consistency with the California Environmental Quality Act (CEQA).

Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, including conditions addressing potential impacts to wetlands, will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally-damaging feasible alternative and is consistent with the requirements of the Coastal Act to conform to CEQA.

STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.

5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

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